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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/904,415	07/12/2001	Paul Goldman	OB-200	3576

7590 10/30/2002
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EXAMINER

O CONNOR, CARY E

ART UNIT	PAPER NUMBER
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3732

DATE MAILED: 10/30/2002

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/904,415

Applicant(s)

GOLDMAN, PAUL

Examiner

Cary E. O'Connor

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 September 2002.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-21 and 23-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-9, 13-21 and 23-30 is/are rejected.
- 7) ☒ Claim(s) 10-12 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

Applicant is advised that should claim 3 be found allowable, claims 4 and 5 will be objected to under 37 CFR 1.75 as being a substantial duplicate thereof. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 26-30 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 26, line 1, it is unclear if "a handle" refers to the handle set forth in claim 1 or an additional handle.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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Claims 1 and 3-6 are rejected under 35 U.S.C. 102(b) as being anticipated by Ram (5,593,304). Ram shows an oral care device comprising a toothbrush including a head 3 with bristles, a handle 2 from which the head extends, and a conduit (common sheath enclosing lines 22, 24, 26; col. 4, lines 10-12) for supplying water 8, particulate 20 and pressurized air 10 to the head. As to claims 3 -6, note that the conduit is located in the handle and the head (see Figure 2).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 3-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Amadera (4,906,187) in view of Masden (4,322,207). Amadera shows an oral care device comprising a toothbrush including a head 20 with bristles, a handle 14 from which the head extends, and a conduit 17 for supplying a liquid to the head (col. 4, lines 64-66). A switch 14c is located in the handle. As to claims 3-5, note that the conduit is located in the handle and the head (see Figure 4). As to claim 6, note column 4, lines 43-44. Amadera does not include a particulate. Masden discloses a dental cleaning slurry comprising a particulate. This slurry is usable in the type of device shown by Amadera (see paragraph bridging columns 2 and 3). It would have been obvious to one

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of ordinary skill in the art at the time the invention was made to provide the oral care device of Amadera with a particulate slurry in the reservoir, in view of Masden, in order to enhance the cleaning effectiveness of the device.

Claims 1, 3-6 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Blake (5,203,698) in view of Amadera (4,322,207). Blake shows an oral care device comprising an applicator 34 having a head 33 and a conduit 24 for supplying water particulate and pressurized air to the head. A switch 29 is included in the handle for controlling the water, particulate and pressurized air to the head. Amadera shows an oral care device wherein the head includes bristles. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide bristle on the head of Blake, as taught by Amadera, in order to enhance the cleaning ability of the device. As to claim 26, note the water and slurry stored in the handle of Blake.

Claims 7-9, 13, 23 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hines (5,503,553) in view of Masden (4,322,207). Hines shows an oral care device comprising a housing 22, an electric motor and air compressor (pump 64), an enclosed container 41, a first conduit 78 for conducting compressed air from the compressor to the container, and a second conduit 54 from the container to an applicator 108. Masden discloses a dental cleaning slurry comprising a particulate. This slurry is usable in the type of device shown by Hines (see paragraph bridging columns 2 and 3). It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the oral care device of Hines with a particulate

slurry in the reservoir, in view of Masden, in order to enhance the cleaning effectiveness of the device.

Claims 14-21 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Madsen (3,971,136) in view of Otani (5,387,182). Madsen shows an oral care device comprising an electric motor and air compressor (pump 108), an enclosed container 129, a first conduit 115 for conducting compressed air from the compressor to the container, and a second conduit 126 from the container to an applicator 125. Madsen teaches delivering the compressed air at a pressure between 15-60 psi, which is effective to remove plaque. Otani shows an oral care device having a conduit of about two and a half feet long connected to the handle. It would have been obvious to one of ordinary skill in the art at the time the invention was made to make the second conduit of Hines at least 24 inches long, as taught by Otani, so that the handle may easily reach all areas of the mouth. The specific material contained within the container cannot be given patentable weight in the claim because the material is not positively claimed.

Allowable Subject Matter

Claims 10-12 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 27-30 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Specification

The disclosure is objected to because it contains an embedded hyperlink and/or other form of browser-executable code. Applicant is required to delete the embedded hyperlink and/or other form of browser-executable code. See MPEP § 608.01.

The specification is objected to because reference character "34" has been used to designate both a valve (page 3, line 43) and an inlet (page 4, line 8). Correction is required.

Response to Arguments

Applicant's arguments with respect to claims 1 and 7 have been considered but are moot in view of the new ground(s) of rejection.

Applicant's arguments filed September 3, 2002 have been fully considered but they are not persuasive. As to the rejections of claims 14-21 and 25, it is held that at least some of the pressurized air 39 (Madsen), that are used to a) keep the particles in suspension and b) to force the slurry through the outlet port, would inherently end up being forced along with the slurry into the second conduit.

Conclusion


The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cary E.

O'Connor whose telephone number is 703-308-2701. The examiner can normally be reached on M-F 7:00-3:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Shaver can be reached on 703-308-2582. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-0758 for regular communications and 703-308-0758 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0858.


Cary E. O'Connor
Primary Examiner
Art Unit 3732

ceo
October 28, 2002